HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION Nos.11046 & 11532 OF 2006

Dated:08.11.2006

WRIT PETITION NO.11046 OF 2006

Between

V.Markendeya Babu

.....
PETITIONER

And

Government of A.P., Principal Secretary,
Agricultural and Co-Operation Department
and 17 others.

.....RESPONDENTS

AND

WRIT PETITION NO.11532 OF 2006

Between

Kandru Sambasiva Rao and
eight others.

.....
PETITIONER

And

Government of A.P., Principal Secretary,
Agricultural and Co-Operation Department
and 17 others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION Nos.11046 & 11532 OF 2006

COMMON ORDER:

In these two writ petitions common questions of law and fact arise for consideration. Therefore, they are being disposed of by this common order.

It appears that by G.O.Ms.No.319, dated 28.07.2005, the petitioner in Writ Petition No.11046 of 2006 and the petitioners in Writ Petition No.11532 of 2006 were appointed as the Chairman and Members of Ponnur Agricultural Market Committee (for short 'the Committee'), respectively. The said G.O. was also gazetted, as required under law, on 02.08.2005. In the meanwhile, the petitioners have assumed charge on 31.07.2005 itself, as the Chairman and Members of the Committee. While that being so, it appears that on 23.08.2005, a memo has been issued by the Government keeping G.O.Ms.No.319 dated 28.07.2005 in abeyance. The third respondent, who received the said memo, on 30.08.2005 informed the second respondent that the Committee has already assumed charge on 31.07.2005 and has been continuously functioning. However, there was no further communication received from the higher authorities in the matter. While the matter stood thus, after about a year i.e., on 03.06.2006, the impugned G.O.Ms.No.139, has been

issued reconstituting a new Market Committee with respondent Nos.5 to 18 herein as the Chairman and Members of the Committee respectively. The impugned G.O.Ms. No.139 is purported to have been issued in exercise of the powers conferred under Sub-section (1) of Section-6 read with Sub-sections (1) and (2) of Section-5 of Andhra Pradesh (Agricultural Produce & Livestock) Markets Act, 1966. It refers to G.O.Ms.No.319, dated 28.07.2005 and also to the Government memo No.11594/Mktg.1-2/2005-1 dated 23.08.2005, keeping G.O.Ms.No.319 in abeyance. It further states that G.O.Ms.No.319 dated 28.07.2005 has been cancelled. Aggrieved by the same, the present writ petitions are filed.

Learned counsel for the petitioners made an effort to attack the impugned G.O. on various grounds including the violation of principles of natural justice.

Respondent Nos.1 and 2 filed common counter-affidavit and respondent No.3 filed a separate counter-affidavit. In both the counter-affidavits, it was stated that the third respondent-Assistant Director of Marketing, Guntur, vide his letter No.107/SMA/2005, dated 30.08.2005, informed the second respondent-Commissioner and Director of Marketing that the petitioners have already assumed charge as Chairman and Members, Agricultural Market Committee, Ponnur, on 31.07.2005, and continuously discharging the duties. But,

he did not receive any further communication from the higher authorities in this regard.

There is no necessity of going into all the details. It is an undisputed fact that before passing the impugned G.O., no notice of any kind has been issued to the Committee, which has assumed charge on 31.07.2005 and continued its business till the date of issuance of the impugned G.O. Therefore, the issuance of the impugned G.O. is in gross violation of the principles of natural justice. On this ground alone, the impugned G.O. is liable to be set aside.

Accordingly, both the writ petitions are allowed and the impugned G.O. is set aside. However, this will not preclude the respondents in working out their remedies as available under the law. If any revisions were filed by the un-official respondents, it is for the authorities concerned to dispose of the same as per the law. No costs.

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(C.V.RAMULU, J)

08.11.2006
DR